

# Exhibit 6



1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF TEXAS  
3                   MARSHALL DIVISION

4                   NETLIST, INC.,    ( CAUSE NO. 2:21-CV-463-JRG  
5    )  
6                   Plaintiff,    ( )  
7                   vs.    ( )  
8    )  
9                   SAMSUNG ELECTRONICS CO., LTD.,                 ( )  
10                   et al.,    ) MARSHALL, TEXAS  
11    ( MARCH 28, 2023  
12                   Defendants.    ) 9:00 A.M.  
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14    VOLUME 1  
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16    PRETRIAL CONFERENCE  
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18    BEFORE THE HONORABLE RODNEY GILSTRAP  
19    UNITED STATES CHIEF DISTRICT JUDGE  
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1 THE COURT: Be seated, please.

2 This is the time set for pretrial matters before the  
3 Court in the case of Netlist, Inc., versus Samsung Electronics  
4 Company, Ltd., et al. This is Civil Case No. 2:21-CV-463.

5 The Court will ask for announcements at this time. What  
6 says the Plaintiff?

7 MS. TRUELOVE: Good morning, Your Honor. Jennifer  
8 Truelove here for Plaintiff. With me today at counsel table,  
9 we have Mr. Jason Sheasby, Ms. Yanan Zhao, and Mr. Michael  
10 Rosen.

11 We are ready to proceed.

12 THE COURT: Thank you.

13 What's the announcement for the Samsung Defendants?

14 MS. SMITH: Good morning, Your Honor. Melissa Smith  
15 on behalf of Samsung.

16 I have many people in the courtroom that have joined me  
17 today, but what I'd like to do is introduce Your Honor to  
18 those that will be arguing today on behalf of Samsung in the  
19 order of argument: Mr. Ruffin Cordell, Mr. Mike McKeon, Ms.  
20 Lauren Degnan, Dr. Frank Albert, Mr. Brian Livedalen, Mr. Matt  
21 Colvin, Mr. Matthew Mosteller, Mr. Tom Reger, and in the back  
22 Ms. Katherine Reardon.

23 Your Honor, we also have a client representative in the  
24 courtroom today, Mr. Michael Nguyen, and we're ready to  
25 proceed, Your Honor.

1 products, that's a bridge too far.

2 The references to Micron, Intel, and SK hynix  
3 investments, I -- I don't really know how to -- how to address  
4 this. In a hypothetical negotiation, Mr. Meyer is presuming  
5 that the parties would take into account the amount of money  
6 invested by two separate third parties for which there's no  
7 evidence that they contributed any of the technology that's  
8 specifically related to these cases.

9 And that strikes me as -- as a really dangerous precedent  
10 to set in the hypothetical negotiation for you to start  
11 speaking about third-party products.

12 The next issue is confidential settlement discussions.  
13 If we write a letter to Samsung that's a settlement offer,  
14 that settlement offer has no place in front of a jury. That's  
15 the whole purpose of FRE 408 and things fall down. Samsung in  
16 their surreply brief suggests there's a well-known exception  
17 to JEDEC-RAND issues. There's no RAND issues in this case,  
18 and there was no exception in our letter.

19 So I don't believe it's appropriate for them to inject  
20 settlement communications into this case, and it would I think  
21 significantly damage the -- sort of the integrity of the  
22 process if we had to be aware of that.

23 References to the 2017 ITC action, there is an analysis  
24 that was done about a FRAND offer that we made in the *SK Hynix*  
25 case for a separate set of patents that related to LRDIMM.

1 THE COURT: Let's make it brief, Mr. Sheasby.

2 MR. SHEASBY: So there are two separate agreements.

3 If you go to slide 35.

4 This is the proposal that was made in 2000 -- while this  
5 lawsuit is ongoing that is subject to FRE 408 that did have a  
6 \$6 offer in it. That is ultra vires. It's FRE 408 and  
7 shouldn't be allowed. There's just a confusion, and I don't  
8 think it was intentional.

9 There is another \$6 FRAND offer that was made on LRDIMMs  
10 back in 2017 that was before the patents at issue had even  
11 issued that was made to SK hynix as part of a FRAND offer and  
12 because those patents were being asserted as standard  
13 essential patents. I don't attribute any ill will to it.

14 There's two separate \$6 offers. One was an FRE 408 in  
15 2022, and one of them was this FRAND negotiation that was done  
16 for standard essential patents, none of which were the patents  
17 at issue in that case. And I just want to clarify that for  
18 the Court.

19 THE COURT: All right. Thank you.

20 All right. With regard to Document 214 and the numerous  
21 subparts in Plaintiff's motion to strike portions of the  
22 expert's rebuttal report tendered by Paul K. Meyer, I'll try  
23 to address these in order which they were set forth in the  
24 briefing.

25 With regard to the Meyer market comparables approach,

1           That's going to be the Court's same ruling on the  
2 references to Micron, SK hynix, and Intel R&D investments.  
3 That portion is denied, can be fairly addressed by  
4 cross-examination.

5           With regard to the settlement discussions governed by  
6 Rule 408 and the particular letter that's been referenced in  
7 the argument today, I'm going to grant that. I do believe it  
8 falls under Rule 408. It's being used to disprove the amount  
9 of a disputed claim, and I think that's what the rule stands  
10 to protect against.

11          With regard to the expert analysis from the 2017 ITC  
12 action, I've made it clear earlier today that the ITC action  
13 is an adjudicatory process that has limited probative value  
14 and a high risk of confusion. I'm going to grant that portion  
15 of the motion, primarily on a 403 analysis.

16          With regard to the comparison of the patent damages to  
17 Netlist's market cap, I'm going to grant that. That's highly  
18 prejudicial and it's innately pejorative in the way it's  
19 presented.

20          With regard to the references to Samsung's patent  
21 portfolio, that's relevant and probative, and I'm going to  
22 deny the motion in that regard.

23          With regard to references to unaccused products, I think  
24 that can be fairly dealt with by cross-examination and I'm not  
25 going to exclude it. That's not going to preclude relevance

1 previously set on the 17th. Go back 10 days and you get to  
2 the 7th. We're now on the 14th. Go back 10 days, and you get  
3 to the 4th. So the first step in that process should be on  
4 the 4th and not the 7th. The second one should follow, what  
5 is it, three days later?

6 MR. CORDELL: Yes, sir.

7 THE COURT: That would put it on the 7th. So 4th  
8 and the 7th instead of 7th and the 10th.

9 All right?

10 MR. CORDELL: Thank you.

11 MR. SHEASBY: Thank you, Your Honor.

12 THE COURT: All right, Counsel. We stand in recess  
13 until tomorrow morning.

14 MR. SHEASBY: Thank you, Your Honor.

15 (The proceedings were concluded at 5:15 p.m.)

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